REMARKS

Claims 1-3, 6-11 and 14-16 are pending in the instant application. At the outset, Applicants gratefully acknowledge the indication of subject matter distinguished over the prior art references in all pending claims. In the Most recent Office Action, claims claims 1-3, 6-11 and 14-16 are rejected under 35 U.S.C. § 101 as allegedly drawn to non-statutory subject matter outside the "useful arts". Claims 10-11 and 14 are rejected under 35 U.S.C. § 101 as allegedly drawn to non-statutory subject matter for reciting "a computer-readable medium incorporating a program of instructions" without positive recitation of a computer, or that the computer executes the program. The Examiner has requested clarification of the inventorship in light of the article by Yamanishi, et al., *On-line Unsupervised Outlier Detection Using Finite Mixtures with Discounting Learning Algorithms*, Proc. of the 6th ACM SIGKDD, pp. 320-324 (Aug 20-23, 2000) (hereinafter, "Yamanishi").

Applicants respectfully submit that the filing declaration accompanying the original application speaks for itself as to the inventorship of the present application. In that declaration, applicant acknowledges the duty of disclosure under 37 C.F.R. § 1.56, with which Applicants have fully complied.

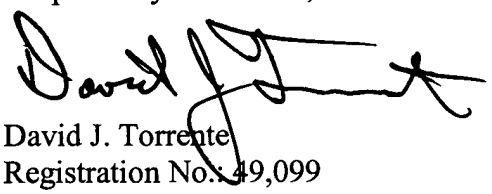
Turning to the rejection of the claims under 35 U.S.C. § 101, applicants respectfully traverse the rejection. Applicants submit that the rejection is moot in light of the recent decision of the Board of Patent Appeals and Interferences in the case of *Ex Parte Lundgren*, 76 USPQ2d 1385 (28 Sept 2005). In that case, the Board held that there is no recognized "technological arts" test for determining statutory subject matter under § 101. Accordingly, it was not necessary for a claimed method to be expressed in terms of a computer, automated means, or apparatus of any kind in order to constitute patentable subject matter.

The Office Action specifically relies upon the "technological arts" test in its rejection under § 101. See, Office Action, p. 11 ("Only when the claim is devoid of any limitation to a practical application in the technological arts should it be rejected under 35 U.S.C. § 101."); p. 5 ("[T]he claimed intended use of the invention... is not a practical application."). Moreover, the standard for statutory subject matter established by the M.P.E.P. similarly relies upon the "technological arts" test. *See*, M.P.E.P., § 2106 (IV)(B)(2)(a) ("A claim limited to a machine or manufacture which has a practical application in the technological arts, is statutory."); § 2106 (IV)(B)(2)(b) ("For [the] subject matter to be statutory, the claimed process must be limited to a practical application... in the technological arts.")

Therefore, applicants respectfully submit that the rejection of all pending claims is obviated in light of this binding precedent of the BAPI, and kindly requests favorable reconsideration and withdrawal.

In light of the foregoing, Applicants submit that all claims recite patentable subject matter and kindly request an early and favorable indication of allowability. If the Examiner has any reservation in allowing the claims, and believes that a telephone interview would advance prosecution he is kindly requested to telephone the undersigned at an earliest convenience.

Respectfully Submitted,



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